

Add Section 15618.5 to the Government Code to authorize Board Investigative Division staff to receive engraved pictures or photographs from the Department Of Motor Vehicles.

Source: Investigations Division

Under existing law, Section 15604 of the Government Code requires the Board to enforce the tax laws of the State of California. Specific tax law enforcement authority is contained throughout the Revenue and Taxation Code, including but not limited to, the Cigarette and Tobacco Products Tax Law, the Diesel Fuel Tax Law, and the Sales and Use Tax Law.

Currently, all criminal tax fraud investigations are conducted by investigators in the Board's Investigations Division (ID). ID staff investigate suspected criminal violations in all the tax programs administered by the Board and identify criminal suspects for prosecution.

ID fraud investigators are not peace officers and therefore have limitations as to what they can do. To help overcome these limitations, the Board contracts with the Department of Justice (DOJ) for four full time peace officers. The DOJ contract provides the Board with a multitude of services including moving surveillance, obtaining background criminal history information, and the execution of search warrants. All services are procured to assist Board tax fraud investigators in the performance of their duties.

This proposal would grant Board tax fraud investigators the statutory authority to obtain engraved pictures or photographs directly from the Department of Motor Vehicles.

Background. In 1997, the Board contracted with the Commission on Peace Officer Standards and Training (POST) to conduct a management review of its investigative programs. The purpose of the study was to assess the organizational structure and operations of the Board's investigative functions to ensure their ability to perform high-quality and effective investigations in the most efficient manner possible.

The POST report concluded that dedicated employees were trying to do a good job but lacked the tools to do the job correctly. The review also found that the current investigation system was inadequate to meet the needs of a proper investigative staff. One tool instrumental in affording Board tax fraud investigators the ability to conduct investigations is the ability to obtain drivers license photographs directly from DMV, thereby limiting the need for outside agency assistance.

The DMV photograph is one of the most pertinent pieces of information to the criminal tax fraud investigator in charge of a case. While felony tax evasion is still considered a white-collar crime, today's perpetrators include individuals who operate

anonymously in the underground economy, and traditional organized crime. There are several operational needs that justify the use of DMV photographs. Assisting law enforcement agencies and district attorneys to describe suspects with particular specificity, substantiating and/or collaborating residential address locations, as well as identifying and qualifying witnesses as the state's affiant for felony search warrants all necessitate the use of DMV photographs. While the aforementioned issues are significant, the most important need is to provide Board tax fraud investigators with an essential tool necessary to protect themselves in a potentially hostile environment – the ability to visually identify the person they are investigating.

Until recently, the Board did enjoy the privilege of receiving drivers license photographs from the DMV. However, the DMV recently reviewed their practices and determined, based on the 1986 California Supreme Court decision, *Perkey v. Department of Motor Vehicles* (1986) 42 Cal. 3d. 185, that the Board could no longer have access to the photographs as it did not have specific authority under the law. Currently, Board staff must request the photographs from the DOJ, who obtains them from the DMV. Inability to obtain the information directly from the DMV can delay a Board tax fraud investigation for up to two weeks, contingent on DOJ's workload. Obtaining the information directly from the DMV can take one day. This delay in obtaining necessary information reduces the Investigations Division's effectiveness.

The annual cost associated with DOJ providing the drivers license photograph on behalf of the Investigations Division is estimated to be \$23,231 for approximately 620 requests. This amount will increase over time as a result of an increase in the number of ID investigations and contract cost increases. This cost is equivalent to losing one DOJ agent for two months every year. The money could be better spent on law enforcement services Board investigators cannot currently do. In addition, DOJ has expressed concern that since we do not have specific authority under the law to have DMV photographs, they may not be able to share them with us. This matter is currently under review.

This proposal would give Board staff the authority to obtain DMV photographs directly from the DMV in order to better conduct their tax fraud investigative duties.

Section 15618.5 is added to the Government Code to read:

15618.5. Notwithstanding Vehicle Code Section 1808.5, the board, as a board, individually, or through its staff, may obtain copies of full face engraved pictures or photographs of licensees directly from the California Department of Motor Vehicles for the purposes of enforcing the California Revenue and Taxation Code.